

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	John L. & Patricia A. Carr)
	Dist. 4, Map 12, Control Map 12, Parcel 33.00,) Cheatham County
	S.I. 000)
	Residential Property)
	Tax Year 2007)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$54,500	\$231,100	\$285,600	\$71,400

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on October 17, 2007 in Ashland City, Tennessee. In attendance at the hearing were Mr. and Mrs. Carr, the appellants, Betty Balthrop, Cheatham County Assessor of Property, and Joe Griffin, Regional Appraisal Supervisor for the Division of Property Assessments.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 9.4 acre tract improved with a single family residence located at 1616 Old Clarksville Pike in Chapmansboro, Tennessee.

The taxpayers contended that subject property should be valued at \$222,300. In support of this position, the taxpayers testified that they purchased subject land in 2000 for \$29,900 and constructed subject residence in 2001 at a cost of \$165,000. The taxpayers maintained that the 2007 countywide reappraisal caused the appraisal of subject property to increase excessively given their historical costs.

The taxpayers also asserted that a reduced valuation is supported by their prior appeal in tax year 2002. In that appeal, the Assessment Appeals Commission adopted a value of \$220,900. The taxpayers claimed that subject property should be appraised closer to the value adopted by the Commission.

The assessor contended that subject property should be valued at \$271,800. In support of this position, the testimony and written analysis of Joe Griffin, RES, TMA was offered into evidence. Essentially, Mr. Griffin analyzed four comparable sales which he concluded support a market value indication of \$281,800 after adjustments. Mr. Griffin's somewhat lower recommended value reflects adjustments to the property record card, the most significant of which was reducing the condition factor used to value the land from 80% to 70% due to topography.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$268,400. As will be discussed below, the administrative judge finds that Mr. Griffin's analysis should receive greatest weight. However, the administrative judge finds that the preponderance of the evidence supports adoption of a 65% condition factor. This results in land and improvement values of \$44,300 and \$224,100 respectively.

Since the taxpayer is appealing from the determination of the Cheatham County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject property as of January 1, 2007 constitutes the relevant issue. The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2.

The administrative judge finds that Mr. Griffin analyzed four comparable sales in accordance with generally accepted appraisal practices in arriving at his opinion of value. Respectfully, the taxpayers simply relied on data from five (5) to seven (7) years old that has not even been adjusted for time. The administrative judge finds that the taxpayers' historical construction costs and the ruling of the Assessment Appeals Commission lack probative value due to their remoteness in time.

The administrative judge finds that Mr. Griffin's recommended land value of \$47,700 was based upon a 70% condition factor. However, Mr. Griffin indicated that the 65% condition factor adopted by the Assessment Appeals Commission in 2002 was also reasonable in his judgment. The administrative judge finds that the taxpayers' testimony concerning the topography of subject land supports adoption of a 65% condition factor.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$44,300	\$224,100	\$268,400	\$67,100

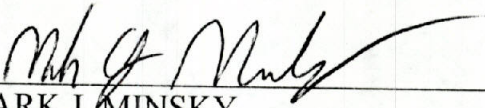
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 30th day of October, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. John L. Carr
Betty G. Balthrop, Assessor of Property